

Deadlines for paying consumer rebates

HB 511 by Hochberg (Van de Putte)

DIGEST:

HB 511 would have required companies that offer mail-in rebates to pay consumers within the promised time or, if no time period was specified, no more than 30 days after receiving a properly executed rebate form. For improperly completed rebate requests, the company would have had to notify the consumer within the time allotted for paying the rebate and offer an opportunity to correct the rebate request within 30 days of the notification. A company that inappropriately rejected a rebate application would have had 30 days after discovering the mistake to pay the rebate. A violation of the rebate payment requirements would have been considered a deceptive trade practice as defined by Business and Commerce Code, ch. 17.

GOVERNOR'S REASON FOR VETO:

“Under House Bill No. 511, businesses offering consumer rebates which take more than 30 days to process would be subjected to potential class action lawsuits under the Deceptive Trade Practices Act. This is an unreasonably short period of time, which could subject companies with reasonable procedures for paying rebates to endure expensive and lengthy litigation. These lawsuits could include claims for mental anguish, treble damages and attorneys’ fees, an overly broad and onerous remedy that does not differentiate between companies that withhold rebates unfairly from those that have reasonable payment processes that take more than 30 days.

“Under the guise of consumer protection, this bill would vastly expand class action lawsuits without a direct relationship to demonstrable harm. In these instances, the end result of this bill would be to make the litigation so expensive and so risky that a company could be compelled to pay a large settlement even if it has not harmed anyone.

“The company would also be susceptible to lawsuits if it employs a different procedure for helping consumers fix incorrectly completed rebate applications than the procedure set forth in the bill, or if its notice to a consumer that he has submitted false proof of purchase takes more than 30 days to arrive. The bill also allows retailers to be sued, even though they do not control the mailing of the rebate.

“We want to encourage companies to offer the best prices to Texas consumers. This bill would result in companies offering rebates to consumers in other states, but making them void in Texas.

“Consumer protection laws should not be used as a pretext for the vast expansion of class action and other ‘big ticket’ lawsuits which lead to higher insurance and litigation costs for employers and higher prices to Texas consumers.”

RESPONSE:

Rep. Scott Hochberg, the bill’s author, said “Gov. Perry’s unfortunate veto of HB 511 means that electronics companies will continue to cheat Texas consumers out of millions of dollars in rebates to which they are entitled. This bill was carefully written to provide clear guidelines for companies making rebate offers and to hold those companies responsible when they fail to do what they promise.

“Contrary to the veto proclamation, the bill did not require a company to pay its rebates within 30 days. Rather, it required the companies to pay the consumer within whatever time period the company promised in the rebate offer. The 30-day provision would have only applied if a company did not specify what the time period would be. I wrote this provision to match the Federal Trade Commission rule on rebates at the specific request of representatives of the electronics industry.

“Rebates are an increasingly popular method of enticing consumers to buy expensive electronics. Often, the promised rebate equals as much as two-thirds of the original price, which can be hundreds of dollars. While many rebate programs work well, some companies do not meet their obligations. Many customers never receive a response to their rebate request. Currently, the only option for the frustrated consumer is to lodge a complaint with the Better Business Bureau or the attorney general.

“Rebates have become such a huge consumer headache that one major electronics retail chain has announced it will phase out rebate offers over the next two years. Another has been placing the words ‘no rebate required’ prominently in its sale ads. But that does nothing for a consumer who, in good faith, purchases products in anticipation of a rebate and is left with empty pockets.

“After the bill was introduced, I worked extensively with industry, up until the end of the legislative session, to include many provisions that they felt were important and necessary. The bill was quickly voted out of both the House and Senate committees and chambers with overwhelming support, even by those who have been strong supporters of limiting lawsuits. I was, in fact, encouraged by many members to make the bill even stronger.

“The governor says he would like to encourage companies to offer the best prices to Texas consumers. But offering the best prices is of little help to Texas consumers if they end up paying a far higher price because they are unable to collect the rebates they are owed.”

Sen. Leticia Van de Putte, the Senate sponsor, said: “I am disappointed that Gov. Perry chose to veto HB 511, Rep. Hochberg’s Consumer Rebate Bill. I believe it is reasonable for consumers to expect to get what they’re promised from retailers and within a reasonable timeframe. HB 511 was a carefully crafted compromise that would have protected consumers by encouraging accountability among businesses offering rebate programs. Without this bill, Texans will continue to have frustratingly little recourse against this type of injurious business practice.”

NOTES:

HB 511 was analyzed in the April 27 *Daily Floor Report*.